



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- DATE FILED: _____

IN RE THE APPLICATION OF MARK X
MCDONALD, AS LIQUIDATOR FOR :
DARLOW INVESTMENTS LP, LIVINGSTON :
PROPERTIES EQUITIES INC., RUMBAY :
ASSETS CORP., AND BANTER INDUSTRIES :
LTD. :
: :
REQUEST FOR DISCOVERY PURSUANT TO :
28 U.S.C. § 1782 :
----- X

18-mc-168 (AJN)

(PROPOSED) ORDER

AS

Alison J. Nathan, District Judge:

Applicant, the Liquidator appointed by the High Court of Justice of the British Virgin Islands (“Liquidator” or “Applicant”), for the companies Darlow Investments, Livingston Properties Equities Inc., Rumbay Assets Corp. and Banter Industries Ltd. (collectively, the “Companies”) move for an order pursuant to 28 U.S.C. § 1782 authorizing it to take discovery from H.S.B.C. Bank U.S.A., N.A.; Bank of New York Mellon; JPMorgan Chase Bank, N.A.; Citibank N.A.; Deutsche Bank (and its affiliates Deutsche Bank Trust Company Americas and Bankers Trust Company); Israel Discount Bank of New York; Wells Fargo Bank, N.A.; Commerzbank AG; and Bank of America, N.A. (collectively, the “Respondents”) for use in foreign proceedings. Specifically, Applicant requests that the Court order the issuance of subpoenas directing each of the Respondents to produce documents, as described in the subpoena attached to the Declaration of Mark McDonald dated April 25, 2018, as Exhibit 21 at Docket No. 3 (the “Subpoena”), for use in ongoing and contemplated foreign litigation.

The Court is satisfied that the application is proper under 28 U.S.C. § 1782: (1) Respondents reside and are found in this District; (2) the discovery is sought for use in proceedings before a foreign tribunal; and (3) Applicant – as court-appointed Liquidator for the Companies in ongoing litigation and the potential plaintiff in contemplated litigation – is an interested party in those proceedings. The Court also finds that the discretionary factors, as described in *Intel Corp. v. Advanced Micro Devices, Inc.*, 542 U.S. 241, 264-266 (2004), weigh in favor of granting Applicant's application.

Accordingly, it is hereby ORDERED that Applicant's application is GRANTED. Applicant may serve each of the Respondents with the Subpoena, in substantially the form it appears as attached to the Declaration of Mark McDonald as Exhibit 21.

It is further ORDERED that Respondents shall produce the documents as specified in the subpoena. Discovery shall be governed by the Federal Rules of Civil Procedure and the Local Rules of the United States District Court for the Southern District of New York.

SO ORDERED.

May 21
Dated: ~~April~~ May, 2018
New York, New York

